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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/045,322 | 01/10/2002 | David Bruce Kumhyr | AUS9-2001-0974-US1 | 1238 |

7590 03/25/2005

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| EXAMINER | |
|---|---|
| LEZAK, ARRIENNE M | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2143 | |

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/045,322 | KUMHYR ET AL. | |
| | Examiner | Art Unit | |
| | Arrienne M. Lezak | 2143 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10 January 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *1/10/02*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over extensive consideration of US Patent US 6,804,659 B1 to Graham.

3. Regarding Claims 1, 4, 6, 10, 13, 15, 19, 22, 24 & 28, Graham discloses an Internet target marketing system, method and computer program, (Abstract & Cols. 17-20) comprising:

- watching a datastream representing a page for delivery to a client via a network, (Col. 1, lines 51-67; Col. 2; Col. 3, lines 1-47; & Col. 4, lines Col. 4, lines 42-63) ;
- determining if an advertisement subject to display restrictions is identified in said datastream, (Col. 8, lines 14-67; Cols. 9 & 10 – particularly Col. 10, lines 32-44), (Examiner notes that Graham teaches display restriction; however Graham does not specifically mention use of the same for restricting subjectively "inappropriate" material from being displayed. Examiner finds that as Graham teaches the generation of a "contextually sensitive advertisement", (Abstract), the same would obviously be based on user interest, as noted by user, and wherein a user could obviously

indicate that subject matter which they found inappropriate to display, (i.e.; on a family computer used by minor children));

- determining if said advertisement is displayed in said page in response to a predetermined set of key items, (Col. 6, lines 7-47; Col. 7, lines 46-67; Col. 8, lines 61-67; & Col. 9, lines 1-4), wherein said step of determining if said advertisement is displayed includes the steps of:
- determining a number of matched key items in content of said page, (per pending Claims 4, 13, 22 & 28),(Col. 7, lines 46-67 & Cols. 8-10); and
- determining if said number of matched key items is less than a predetermined lower threshold, (per pending Claims 4, 13, 22 & 28), (Col. 7, lines 46-67 & Cols. 8-10 – particularly, Col. 10, lines 32-44), (Examiner notes that Graham specifically teaches a threshold comparison and display limitation, wherein any determination based on the same would have been obvious as a means by which content is chosen for display); and
- if said number of matched key items is not less that said predetermined lower threshold, determining if said number of matched key items is not less than a predetermined upper threshold, and wherein said advertisement does not display if said number of matched key items is not less than said predetermined upper threshold, (per pending Claims 6, 15, 24 & 28), (per pending Claims 4, 13, 22 & 28), (Col. 7, lines 46-67 & Cols. 8-10 – particularly, Col. 10, lines 32-44), (Examiner notes that Graham

specifically teaches a threshold comparison and display limitation, wherein any determination based on the same would have been obvious as a means by which content is chosen for display).

Thus, Claims 1, 4, 6, 10, 13, 15, 19, 22, 24 & 28 are found to be unpatentable over considerable consideration of the teachings of Graham.

4. Regarding Claims 2, 11 & 20, Graham discloses content analysis of said datastream comprising a matching against a predetermined set of key items, (Col. 2, lines 5-63 & Col. 7, lines 46-67). Thus, Claims 2, 11 & 20 are found to be unpatentable over considerable consideration of the teachings of Graham.

5. Regarding Claims 3, 12 & 21, Graham discloses determining if said advertisement is displayed comprises the step of scanning said page for instances of said key items, (Col. 2, lines 5-63 & Col. 7, lines 46-67). Thus, Claims 3, 12 & 21 are found to be unpatentable over considerable consideration of the teachings of Graham.

6. Regarding Claims 5, 14 & 23, Graham discloses an Internet target marketing system wherein said advertisement is displayed if said number of matched key items is less that said predetermined lower threshold, (Col. 7, lines 46-67 & Cols. 8-10 – particularly, Col. 10, lines 32-44), (Examiner notes that Graham specifically teaches a threshold comparison and display limitation, wherein any determination based on the same would have been obvious as a means by which content is chosen for display). Thus, Claims 5, 14 & 23 are found to be unpatentable over considerable consideration of the teachings of Graham.

7. Regarding Claims 7, 16 & 25, Graham discloses an Internet target marketing system wherein said lower threshold does not equal said upper threshold, the method further comprising the step of, if said number of matched key items is greater than said predetermined lower threshold and less than said predetermined upper threshold, launching an exception process, wherein said exception process for determining if said advertisement is displayed in accordance with a permission received from a sponsor of said advertisement, (Col. 7, lines 46-67 & Cols. 8-10 – particularly, Col. 10, lines 32-44), (Examiner notes that Graham specifically teaches a threshold comparison and display limitation, wherein any determination based on the same would have been obvious as a means by which content is chosen for display. Additionally, Examiner notes that Graham discloses an **aj** value, which value may be used to "break a tie", in the event of same advertisement **Rj** values, and which **aj** value represents the advertising concept with the higher score. Examiner finds that in allowing for such an advertiser-related additional determination, Graham obviously teaches Applicant's "exception process" as the **aj** score could obviously and clearly reflect sponsor choice). Thus, Claims 7, 16 & 25 are found to be unpatentable over considerable consideration of the teachings of Graham.

8. Regarding Claims 8, 17 & 26, Graham discloses the step of tallying fulfillment data if said advertisement does not display, (Col. 5, lines 30-39 & Col. 6, lines 4-6). Thus, Claims 8, 17 & 26 are found to be unpatentable over considerable consideration of the teachings of Graham.

9. Regarding Claims 9, 18 & 27, Graham discloses content analysis of said datastream comprising a semantic parsing of said datastream, (Col. 11, lines 7-11). Thus, Claims 9, 18 & 27 are found to be unpatentable over considerable consideration of the teachings of Graham.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent 6,078,953 to Vaid;

US Patent US 6,513,031 B1 to Fries; and

US Patent 6,029,195 to Herz.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (571)-272-3916. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571)-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Arrienne M. Lezak
Examiner
Art Unit 2143

AML

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